

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

MAURICE J. HOLT,

Petitioner,

v.

GARY BOUGHTON,

Respondent.

ORDER

21-cv-84-wmc

On January 7, 2025, this court entered an amended judgment in favor of petitioner Maurice Holt granting his petition for a writ of habeas corpus under 28 U.S.C. § 2254 and giving the State of Wisconsin 120 days to either release Holt or initiate state criminal proceedings to retry him. (Dkt. #36.) Pending before the court is the respondent's motion to stay the amended judgment pending the appeal in this case (dkt. #33), and petitioner Holt's vigorous opposition (dkt. #38). In light of the deference due the state court's rulings under the AEDPA, this court acknowledges that respondent certainly has some likelihood of success on its appeal, despite having held that Holtz's original trial "did not reliably test whether he was in fact the third robber" as accused by respondent. (dkt. #27.) Given this fundamental flaw, the court is hesitant to require that petitioner continue to be held in confinement beyond May 7, 2025 (120 days from entry of the amended judgment). Indeed, by that time, petitioner will have already served substantially more than half his prison sentence, and by respondent's acknowledgment, the matter will be fully briefed to the Seventh Circuit Court of Appeals no later than April 10, 2025, after which it would

seem more appropriate for that Circuit's three-judge panel to decide whether any further stay should be entered.

Still to ensure those judges will have sufficient time to consider and decide whether a further stay is appropriate, the court will GRANT respondent's motion for stay (dkt. #33) IN PART by STAYING enforcement of the January 7 amended judgment until 60 days after oral argument is completed before the Seventh Circuit or that court has entered final judgment, whichever occurs *first* and DENY any continued stay after that time, subject, of course, to review by the Seventh Circuit.

Entered this 30th day of January, 2025.

BY THE COURT:

/s/

WILLIAM M. CONLEY
District Judge